

The Ban Asbestos In America Act of 2003
Senator Patty Murray, D-Wash.
Original Cosponsors: Senators Baucus, Boxer, Cantwell,
Dayton, Jeffords and Leahy
Legislative Summary

The U.S. has not banned asbestos:

Asbestos is a known carcinogen, and there is no known safe level of exposure. In 1976, Congress passed legislation to regulate toxic substances (The Toxic Substances Control Act). In 1989 EPA finalized regulations to ban asbestos under TSCA. In 1991, the 5th Circuit Court of Appeals (New Orleans) overturned EPA's final regulation to ban asbestos. The first Bush Administration chose not to appeal the decision to the Supreme Court. As a result, new uses of asbestos were banned, but existing uses of asbestos were not.

Most industrialized countries have banned asbestos:

Asbestos will be banned throughout the EU by 2005, and outside of Europe, Argentina, Australia, Chile, Croatia and Saudi Arabia have also banned the substance. In 2000, the WTO upheld the right of France to ban asbestos, and the U.S. Trade Representative filed a brief supporting France's right to ban the substance. The USTR brief states that chrysotile asbestos "is a toxic material that presents a serious risk to human health."

Americans have been exposed to harmful levels of asbestos:

In Libby, Montana, workers and residents have been exposed to harmful levels of asbestos because of mining operations at the W.R. Grace vermiculite mine. Vermiculite from Libby was shipped for processing to 42 states, and federal agencies are currently investigating possible harmful exposures to asbestos-contaminated vermiculite at these sites. EPA has determined that 14 industrial sites across the country, including sites in Washington, California, Arizona, Minnesota, Kentucky and Pennsylvania, are still contaminated with asbestos because Libby vermiculite was processed or used there.

Senator Murray's Bill:

I. Bans the 6 regulated forms of asbestos (what EPA tried to do in 1989)

This section of the bill most closely resembles EPA's 1989 regulations. Within 1 year of passage of the bill, the EPA would propose regulations to outlaw the manufacture, processing, importation and distribution of asbestos-containing products. Within 2 years, EPA shall issue final regulations banning asbestos-containing products in the United States.

II. Requires an EPA Blue Ribbon Panel and an NAS Study

In response to the EPA Inspector General's report on Libby, Montana, the EPA promised to convene a Blue Ribbon Panel on asbestos and non-regulated fibers. But instead of convening a high level panel, EPA hired a non-profit organization, the Global Environment and Technology Foundation, to develop an asbestos policies focus group. Just this week EPA released GETF's report, which recommends several aspects of the Ban Asbestos in America Act, including that Congress pass legislation to ban asbestos.

While the recommendations are certainly helpful in providing guidance to EPA, Congress and other federal agencies on the next steps to address asbestos, the GETF report does not replace a full fledged Blue Ribbon Panel. This section of the Ban Asbestos in America Act codifies creation of a Blue Ribbon Panel as EPA first committed to in 2001. The panel will include

participation from the Department of Labor and the Consumer Product Safety Commission. It will review the current laws and rules in place to protect workers and consumers, and make recommendations for improving protections within 2 years of passage of the Act.

In addition, the bill calls for EPA to have the National Academy of Sciences (NAS) conduct a study on the current state of the science relating to the human health effects of exposure to asbestos and other durable fibers. In addition, the NAS study shall include recommendations for a uniform system of asbestos exposure standards and for a uniform system to create protocols to detect and measure asbestos. Currently, asbestos is regulated under at least 11 statutes. There are different standards within EPA and across federal agencies, and agencies rely on different protocols to identify the substance. The NAS shall be required to submit the study to EPA, other federal agencies and Congress within 18 months of passage of the Act.

III. Requires an Asbestos-Containing Products and Contaminant-Asbestos Products Study

The purpose of the survey is to determine which products currently entering the product stream contain asbestos, either on purpose or as a contaminant. The EPA Administrator will be required to conduct this review with input from the Department of Labor, the Consumer Product Safety Commission and the International Trade Commission.

The legislation directs the EPA Administrator to conduct a study on the status of asbestos-containing products, such as roofing materials, brake pads and gaskets, which contain asbestos on purpose. EPA must also study contaminant-asbestos products, such as some insulation and horticultural products, which contain asbestos as a contaminant of another substance. The study will examine how people use these products and the extent to which people are being exposed to harmful levels of asbestos. The study must be finalized within 18 months so as to inform the Blue Ribbon Panel and the education campaign.

IV. Requires a Public Education Campaign

Based on the results of the study, the EPA Administrator shall conduct a public education campaign to increase awareness of the dangers posed by asbestos-containing products and contaminant-asbestos products, including those in homes and workplaces. The Administrator shall give priority to those products which pose the greatest risk, as determined by the study required by the bill. The education campaign must be conducted within 2 years of passage of the bill.

Regardless of the results from the study, EPA and the Consumer Product Safety Commission shall be required to conduct a national education campaign about vermiculite insulation within 6 months of passage of the Act. As many as 35 million homes and businesses may contain asbestos-contaminated insulation made with vermiculite from Libby. This requirement is still in the bill despite EPA's recent announcement of an education campaign about vermiculite attic insulation. This will ensure EPA's long-term commitment to educating the public.

V. Requires Additional Research

At least 2,000 people per year die from mesothelioma, a deadly cancer of the lining of the lungs and internal organs caused by exposure to asbestos. The legislation would direct the head of NIH to "expand, intensify and coordinate programs for the conduct and support of research on diseases caused by exposure to asbestos." The Centers for Disease Control would be required to create a National Mesothelioma Registry to improve tracking of the disease. In addition, the bill creates 10 mesothelioma treatment centers around the country to improve treatments for and awareness of this fatal cancer.